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October 6, 2011

Direct (213) 452-6550

VIA EMAIL & FEDERAL EXPRESS

Bill Antosz
Audit Division
Federal Election Commission
999 E Street NW
Washington D.C. 20463

Re: **Los Angeles County Democratic Central Committee – C00300731**
Response to Draft Final Audit Report/Request for In-Person Hearing

Dear Mr. Antosz:

On behalf of the Los Angeles County Democratic Central Committee ("Committee"), we hereby formally respond to the Audit Division's Draft Final Audit Report, pursuant to Commission Directive 70 on Processing Audit Reports. Additionally, the Committee requests an in-person hearing before the Commission, in accordance with the Procedural Rules for Audit Hearings, as set forth in the Federal Registers of July 10, 2009 (Vol. 74, No. 131) and August 7, 2009 (Vol. 74, No. 151).

Background

The Committee is currently undergoing an audit of its activities for the 2007-2008 election cycle. On September 2, 2011, the Audit Division issued its Draft Final Audit Report ("Audit Report"), containing two findings: (1) misstatement of financial activity, and (2) misstatement of Levin financial activity.

Since the issuance of the Audit Report, new facts have come to light that have changed the Committee's understanding of the transactions giving rise to the proposed findings. On September 2, 2011, Kinde Durkee, the Committee's then treasurer (and the treasurer for the entire length of the audit period), was arrested by federal agents and subsequently formally charged with mail fraud, in violation of 18 U.S.C. section 1341. (See Criminal Complaint, *United States of America v. Kinde Durkee*, September 2, 2011, enclosed as Exhibit A.)

The Criminal Complaint against Ms. Durkee alleges that Ms. Durkee engaged in a pattern of embezzlement, using her clients' funds to pay her personal expenses, and then subsequently transferring funds between her clients' accounts in an effort to cover the resulting shortfalls.

According to the complaint, she covered up her embezzlement by filing false campaign finance reports.

Since her arrest, it appears that Ms. Durkee, who served as a professional treasurer for hundreds of local, state, and federal candidates and committees, appears to have embezzled what is alleged to be millions of dollars from her clients, in what may be the largest fraud of this type to date. The scheme appears to have gone previously undetected for years.

Based on information obtained from Ms. Durkee's bank, it is now clear that the Committee is among Ms. Durkee's vast number of victims. Between its federal and non-federal accounts, the Committee estimates that it has lost approximately \$200,000, based upon what it has been able to ascertain thus far. To make matters worse, the Committee's remaining funds, along with the funds of a vast majority of Ms. Durkee's clients, have been frozen by her bank and made the subject of an interpleader action filed in Los Angeles County Superior Court. (See Complaint, *First California Bank v. 68th AD Democratic PAC et al.*, Case No. BC470182, filed September 23, 2011, enclosed as Exhibit B.)

Immediately upon learning of Ms. Durkee's actions, the Committee removed her as treasurer and retained our firm to replace its prior legal counsel in these proceedings. While the Committee has obtained some limited financial information from the bank, it is still attempting to obtain complete information to conduct a thorough review of its prior activities. Nonetheless, we detail below our reasons for requesting an audit hearing, and the changes that we propose to the Final Audit Report and the public record of this process:

Discussion

1. Proposed Audit Finding 1 – Misstatement of Financial Activity

Following Ms. Durkee's arrest, the Committee reexamined the financial transactions that gave rise to the Audit Division's proposed findings. These transactions bear a striking resemblance to the transactions at issue in the Criminal Complaint. Based on our review of records we have been able to access thus far, it is clear that Ms. Durkee engaged in unauthorized transactions that had no relation to the Committee's activities. Although we are still in the process of piecing together Ms. Durkee's malfeasance with respect to the Committee's finances, it is clear that her unauthorized activities are the basis for most, if not all, of the misstatements that ultimately appeared on the Committee's campaign finance reports.

The Audit Report contains a list of discrepancies resulting in the over and under-statement of the Committee's cash balance, receipts and disbursements. From the list, the Audit Division discusses a series of checks totaling \$15,000 that Ms. Durkee wrote to her

business in December, 2008.¹ These funds were eventually repaid to the Committee by December, 2009. When asked about this set of transactions earlier this year, Ms. Durkee claimed that she removed the funds from the Committee's bank account while conducting an audit of credit card contributions, and then repaid the amounts once her audit was complete.

As noted in the Audit Report, none of these transactions were authorized or known by anyone in the Committee's leadership prior to the audit. While Ms. Durkee's initial explanations seemed plausible at the time, the Committee now believes that they were part of Ms. Durkee's overall scheme of embezzlement and subsequent cover-up using funds that were coningled with others and records that were completely falsified.

While the law requires the Committee to disclose its receipts and disbursements (2 U.S.C. §434(b)(1), (2) and (4); 11 C.F.R. §104.1 et seq.), these unauthorized transactions do not appear to be properly characterized as such. Ms. Durkee's apparent scheme to embezzle and cover-up her theft has no relation whatsoever to the Committee's activities. Thus, the Committee questions whether it should be held responsible for reporting the unauthorized and unknown transactions that are at the heart of this embezzlement scheme.

2. Proposed Audit Finding 2 – Misstatement of Levin Financial Activity

With regard to the Levin account, the Audit Division pointed out several transactions that we now believe are directly traceable to Ms. Durkee's unauthorized manipulation of the Committee's accounts and records.

Of these transactions, the Audit Division discussed two at length. The first was a series of checks written to Durkee & Associates from the Levin account in December, 2008, totaling \$45,000.² Ms. Durkee's purported reason for removing these funds from the Levin account was the same as given for the \$15,000 federal account transactions discussed above: an audit of credit card contributions. However, as the Audit Division pointed out, credit card contributions were not deposited into the Levin account during the audit period. Additionally, it appears that it took Ms. Durkee until March of 2010 to repay the funds to the Levin account.

The second set of transactions discussed at length was a \$35,000 transfer to the Pasadena United Democratic Headquarters ("Pasadena United") made in December, 2008, which was not completely repaid to the Levin account until January, 2010. Ms. Durkee explained the first transfer as an error. The Committee learned of the transfer for the first time during the audit. At that point, she advised the Committee that the funds were

¹ On the same day, Ms. Durkee made a mysterious, unreported, and unexplained transfer from the Committee's non-federal account to the federal account, without which the federal account may have been overdrawn.

² We note that the checks used for these transactions break with the check numbering sequence by 1,000. The account later shows a return to normal sequencing after these transactions.

supposed to have been transferred from her credit card processing account to Pasadena United; however, they were erroneously transferred from the Levin account.

Again, as pointed out in the Audit Report, none of these transactions were authorized or known by anyone in the Committee's leadership prior to the audit. The Committee now strongly believes that these transactions follow the same pattern of unauthorized shifting of funds as are detailed in the Criminal Complaint, and as are evidenced by the financial records the Committee has reviewed thus far. Thus, the Committee again questions whether it should be held responsible for reporting these unauthorized and unknown transactions that are at the heart of the embezzlement scheme.

3. Internal Controls

Up until the time of her arrest, Ms. Durkee maintained what appeared to be a professional operation designed to safeguard her clients' interests. Because of her experience and reputation, the Committee and many others entrusted her with their accounts. (*See Sewell, Burbank Accountant Held in Fraud Case, L.A. Times (Sep. 5, 2011), enclosed as Exhibit C.*) In fact, at the time of her arrest, it was reported that Ms. Durkee had hundreds of client accounts under her control. (*Id*)

The Committee understood that Ms. Durkee's office divided up the financial and reporting tasks between her employees. An "account executive" was responsible for the day to day management of the Committee's finances, while another employee was responsible for preparing the Committee's campaign reports. The Committee was advised that account reconciliations were performed by a third Durkee employee. Payments were only permitted to be made if they were authorized by one of two designated officers of the Committee, neither of whom was employed by Ms. Durkee.

The Committee received regular financial reports that tracked the Committee's internal records of its activities – as well as the Committee's disclosure reports. The disclosure reports were not only reviewed and signed by Ms. Durkee, but also were reviewed by the Committee's outside counsel. Thus, the Committee believed that it had sufficient controls in place to avoid any misconduct.

Despite these controls, it now appears that Ms. Durkee engaged in a complex embezzlement scheme that appears unmatched by any prior case on record. Because the Committee relied on the financial information that was purposely manipulated by Ms. Durkee, the Committee had no way to identify the malfeasance that was occurring. The Committee has retained a new firm to provide its bookkeeping and compliance services, and is taking steps to ensure that the Commission's "Best Practices" are followed.

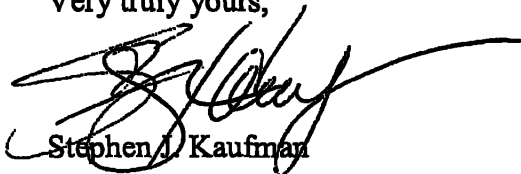
Conclusion

As stated above, the Committee's former treasurer has been charged with mail fraud and alleged to have embezzled millions of dollars from a wide range of clients. The Committee, along with many others, is a victim of her complex embezzlement scheme, and many of the transactions that are part of the Audit Report were neither authorized nor known to the leadership of the Committee prior to the audit.

Therefore, the Committee believes the Audit Report, in its current form, does not adequately reflect the circumstances giving rise to the purported findings, and requests that the Commission revisit the issues raised in the Audit Report in light of the new facts presented by the Committee. We look forward to the opportunity to discuss these issues more fully at the requested hearing, and to respond to any questions that the Commission may have.

Should you require any additional information, please feel free to contact me at (213) 452-6550.

Very truly yours,



Stephen J. Kaufman

SJK:ssg

Enclosure(s)